

Private Letter Ruling: Taxpayer factoring company and single-member LLC that has elected to be disregarded for federal income tax purposes are a single financial organization entitled to apportion business income under IITA Section 304(c).

February 13, 2001

Dear:

This is in response to your letter dated December 8, 2000, in which you request a Private Letter Ruling on behalf of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx (xxx), xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx (xxx) and xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx (xxx). Review of your request for a Private Letter Ruling disclosed that all information described in paragraphs 1 through 8 of subsection (b) of 86 Ill. Adm. Code Section 1200.1120 appears to be contained in your request. The Private Letter Ruling will bind the Department only with respect to xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, xxxxxxxxxxxxxxxxxxxx xxxxxxxx, xxx, and xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx nor any related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

The facts and analysis as you have presented them are as follows:

#### Background

xxx is a publicly traded corporation listed on the NYSE and headquartered in xxxxxxxxxx, Illinois. xxx, together with its subsidiaries, produces containerboard and corrugate packaging products. Corrugated containers are the most commonly used type of paper packaging. Corrugated containers, sometimes referred to as cardboard boxes, are made by combining multiple layers of heavyweight paper, known as containerboard, and fabricating them into finished boxes.

#### Business Restructuring

The business restructuring that has occurred at xxx relates to the utilization of xxxxx accounts receivables as an asset-backed security. In addition, xxx wanted to achieve a greater centralization of the credit and collection function and to achieve administrative efficiencies for xxx. With these two objectives in mind xxx created two new Delaware limited liability companies, xxx and xxx.

In addition to performing cash application and credit and collection activities, xxx will purchase, without recourse, the accounts receivable of xxx generated from the sale of products to their customers. xxx is a single member limited liability company formed under the laws of Delaware. For federal income tax purposes, xxx has elected to be treated as a corporation.

In order to achieve the most favorable borrowing rates against which the accounts receivables could be used as collateral, xxx is required to place the receivables in a special purpose entity that is "bankruptcy remote" from the creditors of xxx. These special purpose "bankruptcy remote" entities' activities are restricted to acquiring, owning and financing accounts receivable. Since xxx has operations and employees performing cash application and credit and collection activities, xxx would not qualify for participation in asset-backed securitization

programs with a national banking corporation and its conduit. Therefore, xxx was created to be a special purpose "bankruptcy remote" entity with the capacity to enter into the asset-backed securitization agreement with a national banking corporation and its conduit. xxx is a single member limited liability company formed under the laws of Delaware. For federal income tax purposes, xxx will be treated as a disregarded entity and will be a division of xxx.

The factoring of xxxxx receivables by xxx and the securitization of those receivables by xxx commenced on November 29, 2000.

### Statement of Fact

The specific facts on which this ruling request is based are stated in Paragraphs 1 through 19 immediately below.

1. xxx is a publicly traded corporation commercially domiciled in Illinois and taxed under subchapter C of the Internal Revenue Code (IRC).
2. xxx markets its containerboard to corrugator plants that manufacture cardboard boxes. xxxxx corrugated products are sold by xxxxx sales staff and independent brokers and marketing organizations. xxxxx operations produce a wide variety of corrugated packaging products, including conventional shipping containers used to protect and transport manufactured goods. xxx also produces multi-color boxes and displays with strong visual appeal that help to merchandise packaged products. The majority of xxxxx customers are business organizations, predominately corporations, but they do sell their products to partnerships and a small number of sole proprietorships.
3. xxx and its subsidiaries file a consolidated tax return for federal corporate income tax purposes and a unitary return for Illinois corporate income tax purposes. The following companies are currently included in the Illinois unitary return: xxx, xxxxxxxxxxxxxxxx and xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. xxx and its subsidiaries' apportionment in Illinois will be based on their sales factor for the calendar year ending December 31, 2000 (under Section 304(h) of the Illinois Income Tax Act (hereafter IITA), the single sales factor is fully phased in for years ending on or after December 31, 2000). The apportionment used by xxx and its subsidiaries in other states in which returns are filed continues in most cases to be based on the respective entities' property, payroll, and sales factors.
4. xxx makes credit sales to customers and, therefore, generates accounts receivable in the normal course of its business operations. Some of these credit sales are made to Illinois customers.
5. xxx offers a variety of payment terms to its customers, including volume discounts, early payment discounts, and other promotional discounts and rebates.
6. Some customers of xxx pay by check, while others pay via electronic funds transfer.
7. Currently, customers' payments made by check and electronic funds transfer are remitted to one of four lockbox locations. The lockboxes are operated by a national banking corporation under an agreement with xxx. The location of each lockbox and

the determination of which lockbox is assigned to each customer is based on minimizing the length of time that is required for customer payments to reach the banking system. One of the lockboxes is located in Illinois. Currently, the services performed by the national banking corporation at various lockboxes include opening customer remittances, depositing funds, providing an online feed of information and relaying remittance paperwork to xxxxx cash application departments.

8. xxx is a single member limited liability company formed under the laws of Delaware. xxx owns 100% of xxx. For federal income tax purposes, xxx has elected to be treated as a corporation. xxx will also be treated as a corporation for Illinois income tax purposes under Section 1501(a)(4) of the IITA. xxx will be located in xxxxxxxxxxxx and xxxxxxxxxxx, Illinois. Illinois will be the only state in which xxx will have a place of business and the only state in which xxx will have employees. The employees' duties will include credit and collection services, cash application, and oversight of the factoring and securitization program. xxx currently has 10 employees. xxx leases real and tangible personal property in Illinois.
9. xxx will purchase accounts receivable for cash and without recourse, at an arm's length discount, from xxx. To the extent that xxx does not have sufficient cash to pay for new accounts receivable, payment will be made by a promissory note. xxxxx purchase of accounts receivable will be at fair market value, which is below their face amount. The difference between fair market value and the face amount will consist of dilution and discount. Adjusted face value is equal to the face amount of the accounts receivable less items of dilution. Dilution represents amounts that xxx would not collect on a receivable in the ordinary course of business. Dilution includes items such as high volume discounts or rebates, fees paid to credit card companies, and discounts for early payment which xxx provides to customers. The discount will be based on the prevailing market rate of interest at the time of the sale, the due date of the accounts receivable, the creditworthiness of the customer groups, and the costs associated with the collection and the cash application process. Appropriate dilution and discount percentages to be applied to the accounts receivable purchased by xxx will be subject to periodic re-evaluation and revision.
10. Under the asset backed securitization agreement, the national banking corporation and its conduit have required that the lockboxes be owned by xxx.
11. There are no present plans in connection with the sale of the accounts receivable to alter the lockbox locations or electronic funds transfer arrangements that are described in paragraph 7. The lockbox locations and number of lockboxes, however, could change from time to time due to changes in customer payment and banking system patterns.
12. xxx is a single member limited liability company formed under the laws of Delaware. xxx owns 100% of xxx. For federal income tax purposes, xxx will be a disregarded entity treated as a division of xxx.
13. In addition to the income which it will earn as a result of the recovery of portions of the discount on the accounts receivable which it will purchase from xxx, xxx will also earn

interest on short-term investments of cash collections pending purchase of new accounts receivable, and interest on intercompany loans which it makes to its affiliates. xxxxx interest income on short-term investments and on intercompany loans will be significantly less than the amount of its income, which results from the recovery of portions of the discount on accounts receivable which it has purchased from xxx.

14. xxx is a special purpose "bankruptcy remote" entity. Its activities are limited to acquiring, owning, and financing accounts receivable. xxx is prohibited from having other types of operations.
15. xxx will sell to xxx for cash and without recourse (or to the extent that available cash is insufficient, for a promissory note) and at a discount a portion of the accounts receivable purchased from xxx. This transaction will be characterized as a sale for commercial law purposes. For federal income tax purposes, the sale will be treated as an intra-company transaction because xxx is treated as a division of xxx.
16. xxx will use the accounts receivable purchased from xxx to secure a loan from a national banking corporation and its conduit.
17. For federal income tax purposes, xxx will be treated as having borrowed funds from the national banking corporation and its conduit. Since xxx will be treated as part of xxx for federal income tax purposes, all transactions entered into by xxx will be treated for federal income tax purposes as entered into by xxx. Furthermore, all transactions between the two entities including the sale of accounts receivable from xxx to xxx will be ignored for federal income tax purposes.
18. From the perspective of xxx, the new asset backed securitization arrangement will generate an increase in operational cash flow at a relatively low cost compared to more traditional financing methods. In addition, it is anticipated that the financing from the national banking corporation and its conduit will be reflected on xxxxx balance sheet and under general accepted accounting principles as balance sheet financing.
19. Based on our interpretation of the statutory provisions in the states in which the lockboxes are located, neither xxx nor xxx will be required to file income tax returns in those states, nor do we believe that xxx or xxx will have an income tax return filing obligation in any other state.

#### Ruling Requests

In view of the lack of regulations and authoritative case law on the subject matter of this request, we respectfully request a ruling under 2 Ill. Adm. Code Section 1200.110. The Illinois income tax issues on which we would like to have your comment are:

1. xxxxx status as a disregarded entity for Illinois income tax purposes.
2. xxxxx status as a financial organization under Section 1501(a)(8) of the IITA.
3. The characterization of xxxxx income under Section 304(c) of the IITA.
4. The determination of xxxxx Illinois customers for purposes of Section 304(c) of the IITA.

5. The apportionment methodology for xxx that would result under Section 304(c) of the IITA.

### Analysis

*The following sections, numbered 1 through 5, represent our analysis of how the Illinois income tax questions should be resolved in this matter.*

1. xxxxx Status as a Disregarded Entity.

xxx will be classified as a disregarded entity under the federal check the box regulations. For federal income tax purposes, xxx will be treated as a division of xxx. Illinois imposes its income tax on individuals, corporations, trusts and estates under Section 201(a) of the IITA. The term "corporation" is defined in Section 1501(a)(4) of the IITA to include associations, joint stock companies, insurance companies, cooperatives and limited liability companies treated as corporations if so classified for federal income tax purposes. xxx should not be a corporation as defined in Section 1501(a)(4) of the IITA, nor should it be classified as any of the other taxable entities enumerated in Section 201(a) of the IITA. For federal income tax purposes, xxxxx income and expense items, as well as assets and liabilities, will be included with those of xxx since xxx is considered a division of xxx. Under Section 203(e) of the IITA, the starting point for computing Illinois taxable income is taxable income as reported under the provisions of the IRC. Illinois does not provide for any modification for income from an interest in a limited liability company under Section 203(b) of the IITA. Thus, it appears the income from PRC will be included in the Illinois taxable income of xxx, and xxx will be disregarded at the state level.

*The next four ruling requests only refer to xxx under the assumption xxx will be treated as a disregarded entity for Illinois income tax purposes.*

2. xxxxx Status as a Sales Finance Company.

Under Section 1501(a)(8)(A) of the IITA, a "sales finance company" is a financial organization. The term "customer receivables" is defined in that section as "an installment, charge, credit, or similar contract or agreement arising from the sale of tangible personal property or services in a transaction involving a deferred payment price payable in one or more installments subsequent to the sale". As previously mentioned, xxxxx business activity in Illinois will be the purchase of customer receivables from xxx. It appears that these receivables meet the definition of "customer receivables" under Section 1501(a)(8)(C) of the IITA. Accordingly, we believe xxx will meet the definition of a "sales finance company."

3. The Characterization of xxxxx Income.

As a financial organization, xxx would apportion its income to Illinois based on Section 304(c) of the IITA. The particular apportionment provision of Section 304(c) of the IITA which appears to be relevant to the income of xxx is clause (1)(C) dealing with "interest from Illinois customers." xxxxx income will be the difference between the amount paid by customers in satisfaction of their accounts receivable and the amount paid by xxx to purchase the accounts receivable from xxx. Generally, this difference will equal the discount (discussed in Fact 9) from adjusted face value at which xxx purchased the accounts receivable from xxx. From the

perspective of the customers of xxx, this discount represents a measure of the value of the financing that is implicit in the deferral of the sales price for products sold by xxx. Since this discount will be derived from prevailing market rates of interest and the creditworthiness of the customers of xxx, we believe that the recovery of this discount will be interest within the meaning of Section 304(c)(1)(C) of the IITA. Furthermore, in the Department's previously published pronouncements on the issue of interest income for purposes of Section 304(c)(1)(C) of the IITA, the Department confirmed this position and treated the income received by a factoring company as interest income within the meaning of Section 304(c)(1)(C) of the IITA.

4. xxxxx Illinois Customers.

As previously stated, xxx has a variety of customers located throughout the United States, including Illinois. The majority of customers are corporations. Other customers are organized as partnerships or sole proprietorships. Customers may have multistate operations, with their respective headquarters located in a single state, multiple locations within a single state, or a single location.

Section 304(c)(1)(C) of the IITA requires financial organizations, such as xxx, to determine business income from sources within Illinois by including only interest from Illinois customers which is received in Illinois. There is no express statutory definition or regulatory interpretation of the term "customer" or "Illinois customer" for purposes of Section 304(c)(1)(C) of the IITA.

The Department previously has published pronouncements on the issue of "customer" and "Illinois customer" for purposes of Section 304(c)(1)(C) of the IITA. From our analysis of those pronouncements, we believe that 1) xxx will consider the obligors on the accounts receivable which it purchases from xxx in making the determination of who are its customers and 2) xxx will treat customers of xxx who are individual Illinois residents or persons other than the individuals whose commercial domicile is in Illinois, as "Illinois customers." Though none of the Department's pronouncements on the Illinois issues discussed above are authoritative, they appear to us independently to be the most plausible construction of the statute.

5. xxxxx Apportionment of Income to Illinois.

Section 304(c) of the IITA includes items of income in the numerator of the Illinois apportionment factor, if they are "from sources within this State." In the context of interest from a financial organization's customers, the concept of "income from sources within" Illinois is further defined in Section 304(c)(1)(C) of the IITA to mean "interest from Illinois customers, which . . . (is) . . . received within this State." If this same Illinois statute were operative from the perspective of the other three states in which the lockboxes are located, xxx would be obligated to file income tax returns in those three states as well as Illinois, notwithstanding the lack of physical presence in any of these states.

There is no express statutory definition or regulatory interpretation of what constitutes "receipt" in Illinois. The Department has, however, issued numerous private letter rulings requiring interest payments made to Illinois locations by Illinois customers to be treated as received in Illinois for purposes of apportionment under Section 304(c)(1)(C) of the IITA.

As previously discussed, xxx and xxx (which will be treated as part of xxx for federal income tax purposes) will receive interest payments from customers of xxx at one of four lockbox locations maintained by a national banking corporation. Some payments received at the lockbox locations will be made by check and some will be made electronically. Based upon our analyses described above, payments made by Illinois customers and transmitted either electronically or mailed to the lockbox maintained in Illinois by the national banking corporation will constitute Illinois receipts. The payments made to the lockboxes, located outside of Illinois, will not constitute Illinois receipts.

### Summary

As explained in our analysis, we anticipate that xxx and xxxxx Illinois income tax liability will be determined as follows. Under the Illinois Income Tax Act, xxx will be treated as a disregarded entity, and its items of income and expense, and assets and liabilities will be included with those of xxx in determining xxxxx Illinois income tax liability under Section 203(e) of the IITA. Since xxx will be in the business of purchasing customer receivables, it will be regarded as a financial organization in Illinois under Section 1501(a)(8) of the IITA. The recovery of the discount (as described above) by xxx will properly be characterized as interest under Section 304(c)(1)(C) of the IITA. In determining its Illinois customers, xxx will look to the customers of xxx. The interest payments received at the Illinois lockbox from customers domiciled in Illinois will constitute business income from sources in Illinois under Section 304(c)(1)(C) of the IITA.

### Operative Date of the Requested Ruling

xxx, xxx, and xxx request that this ruling be applicable to their Illinois income tax liabilities for the tax year ending December 31, 2000 and all later tax years. There is no pending Illinois income tax audit of xxx and its subsidiaries or xxx as a group or either of them individually on the issues discussed in this ruling request.

### Taxpayer Representation

xxx, xxx, and xxx are represented in making this ruling request by xxxxxxxxxxxxxxxxxxxx. A power of attorney appointing xxxxxxxxxxxxxxxxxxxx and xxxxxxxxxxxxxxxxxxxx of that Firm for purposes of pursuing this ruling has been attached.

## Ruling

### 1. Characterization of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx for Illinois income tax.

Section 102 of the IITA declares:

Except as otherwise expressly provided or clearly appearing from the context, any term used in this Act shall have the same meaning as when used in a comparable context in the United States Internal Revenue Code of 1954 or any successor law or laws relating to federal income taxes and other provisions of the statutes of the United States relating to federal income taxes as such Code, laws and statutes are in effect for the taxable year.

Section 1501(a)(4) of the IITA declares:

Any entity, including a limited liability company formed under the Illinois Limited Liability Company Act, shall be treated as a corporation if it is so classified for income tax purposes.

Accordingly, since xxxxxxxxxxxxxxxxxxxxxxxx (xxx) has elected to be treated as a corporation for federal income tax purposes, it will be a corporation for Illinois income tax purposes.

Treas. Reg. § 301.7701-3 provides that, in determining how an unincorporated organization shall be classified, limited liability companies and other “eligible entities” may generally elect to be classified as partnerships or as corporations. Treas. Reg. § 301.7701-3(a) reads, in part:

An eligible entity with a single owner can elect to be classified as an association or to be disregarded as an entity separate from its owner.

Under this provision, if the owner is a corporation, the single-owner eligible entity and its owner will be treated as a single entity defined under the Internal Revenue Code to be a corporation.

Because this definition is expressly adopted by the IITA, a single owner eligible entity whose owner is a corporation and which elects to be taxed as part of its owner will not be treated as an entity separate from its owner for Illinois income tax purposes. Instead, the single-owner eligible entity and its owner corporation will be, by definition, a single entity taxed as a corporation, and the assets, liabilities, and items of income, deduction, and credit of the eligible entity must be included with the assets, liabilities, and items of income, deduction, and credit of the owner corporation in determining any Illinois income tax and Personal Property Tax Replacement Income Tax liabilities of the owner corporation.

Since xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx has elected under Treas. Reg. § 301.7701-3(a) to be disregarded as an entity separate from xx and xx are one entity for purposes of the IITA. For the remainder of this ruling, the two entities will be referred to as xx, and all statements of fact, conclusions and rulings shall apply to both entities as if they were a single corporation except as expressly indicated as applying to one entity or the other.

[illegible]

Section 1501(a)(8) of the IITA defines the term “financial organization” as follows:

(A) The term "financial organization" means any bank, bank holding company, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, building and loan association, credit union, currency exchange, cooperative bank, small loan company, sales finance company, investment company, or any person which is owned by a bank or bank holding company. For the purpose of this Section a "person" will include only those persons which a bank holding company may acquire and hold an interest in, directly or indirectly, under the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841, et seq.), except where interests in any person must be disposed of within certain required time limits under the Bank Holding Company Act of 1956.



(C) For purposes of subparagraph (A) of this paragraph, the term “sales finance company” has the meaning provided in the following item (i) or (ii):

(i) A person primarily engaged in one or more of the following businesses: the business of purchasing customer receivables, the business of making loans upon the security of customer receivables, the business of making loans for the express purpose of funding purchases of tangible personal property or services by the borrower, or the business of finance leasing. For purposes of this item (i), customer receivable means:

(a) a retail installment contract or retail charge agreement within the meaning of the Sales Finance Agency Act, the Retail Installment Sales Act, or the Motor Vehicle Retail Installment Sales Act;

(b) an installment, charge, credit, or similar contract or agreement arising from the sale of tangible personal property or services in a transaction involving a deferred payment price payable in one or more installments subsequent to the sale; or

(c) the outstanding balance of a contract or agreement described in provisions (a) or (b) of this item (i). A customer receivable need not provide for payment of interest on deferred payments. A sales finance company may purchase a customer receivable from, or make a loan secured by a customer receivable to, the seller in the original transaction or to a person who purchased the customer receivable directly or indirectly from that seller.

You have represented that virtually all of the business activity of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx will be related to the purchase of customer accounts receivable from xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx and its subsidiaries. Under Section 1501(a)(8)(C) of the IITA, xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx will therefore be a sales finance company, which is a financial organization for purposes of the IITA.

3. Apportionment of Business Income of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

Section 304(c)(1) of the IITA provides the basic apportionment rule for financial organizations, as follows:

Business income of a financial organization shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is its business income from sources within this State, and the denominator of which is its business income from all sources. For the purposes of this subsection, the business income of a financial organization from sources within this State is the sum of the amounts referred to in subparagraphs (A) through (E) following, but excluding the adjusted income of an international banking facility as determined in paragraph (2):

- (A) Fees, commissions or other compensation for financial services rendered within this State;
- (B) Gross profits from trading in stocks, bonds or other securities managed within this State;

- (C) Dividends, and interest from Illinois customers, which are received within this State;
- (D) Interest charged to customers at places of business maintained within this State for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts; and
- (E) Any other gross income resulting from the operation as a financial organization within this State. In computing the amounts referred to in paragraphs (A) through (E) of this subsection, any amount received by a member of an affiliated group (determined under Section 1504(a) of the Internal Revenue Code but without reference to whether any such corporation is an "includible corporation" under Section 1504(b) of the Internal Revenue Code) from another member of such group shall be included only to the extent such amount exceeds expenses of the recipient directly related thereto.

As this statutory provision is structured, a financial organization apportions its business income by identifying each item of business income which is described in paragraphs (A) through (D). Those items are sourced to Illinois according to the applicable rule in each of those paragraphs, and all other items of business income are sourced to Illinois under the rule in (E). The total of items sourced to Illinois is then divided by the total of all business income to determine the amount apportioned to Illinois.

You have requested a ruling that amounts received by xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx from customers of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx and its subsidiaries, to the extent that those amounts exceed the amounts paid by xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx for the respective accounts receivable purchased from xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx and its subsidiaries, will be sourced under Section 304(c)(1)(C) as interest income.

For federal income tax purposes, the United States Supreme Court has defined "interest" to mean "compensation for the use or forbearance of money." *Deputy v. duPont*, 308 U.S. 488, 498 (1940). Pursuant to Section 102 of the IITA, this definition of the term "interest" for purposes of the Internal Revenue Code also applies to the term "interest" as used in the IITA. As you have described the transactions by which xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx will acquire the accounts receivable from xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx and its subsidiaries, xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx will acquire all the rights to payments on the receivables and will assume all responsibility for collection of the receivables, for a cash price determined by the market rate of interest at the time of the purchase, the expected time of payment on the receivables, and the creditworthiness of obligors on the receivables. Accordingly, the amounts received by xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx from xxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx and its subsidiaries' customers in excess of the amounts it has paid for the respective accounts receivable will be compensation received entirely in exchange for the use of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx money and will reflect the factors normally taken into account in determining the amount of interest payable on an advance of funds. Such amounts will therefore be interest for purposes of the IITA, and their allocation will be governed by Section 304(c)(1)(C) of the IITA.

Under Section 304(c)(1)(C) of the IITA, interest income is sourced to Illinois if it is from an Illinois customer and received in Illinois. The term "customer" is not defined in the IITA or in any relevant

authority, and the definition is the proper subject for rulemaking. However, pending the promulgation of a regulatory definition, under the facts described in your request, the obligors on the accounts receivable will be customers of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. Because xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx is affiliated with xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx and its subsidiaries and will be buying the accounts receivable (rather than making a loan to xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx and its subsidiaries secured by the accounts receivable) in transactions fully anticipated at the time the accounts receivable are created, the obligors on the accounts receivable will become customers of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx at the time the accounts receivable are sold.

The term "Illinois customer" also is not defined in the IITA or in any relevant authority, and is also the proper subject for rulemaking. Pending the promulgation of regulations on this issue, the following principles should be applied. First, the term "Illinois customer" will include any individual customer who is a resident of Illinois and any person (other than an individual) who is commercially domiciled in Illinois. Second, if the taxpayer has no actual knowledge of the residence or commercial domicile of a customer, the customer will be presumed (subject to rebuttal) to be an Illinois customer if the billing address of the customer is in Illinois.

The term "received in this State" in Section 304(c)(1)(C) of the IITA is undefined, and is the proper subject for rulemaking. Pending promulgation of regulations on this issue, interest from xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx Illinois customers will be "received in this State" if the payment is sent by the customer to a lockbox located in Illinois or the electronic funds transfer from the customer is directed to an account of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx at a bank located in Illinois.

In summary, the amounts xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx receives from obligors on accounts receivable purchased from xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx and its subsidiaries in excess of the amounts paid by xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx for the accounts receivable will be interest income which will be sourced to Illinois, if:

- (a) the customer is:
  - (i) an individual Illinois resident; or
  - (ii) a person (other than an individual) whose commercial domicile is in Illinois; or
  - (iii) (subject to rebuttal) any person whose billing address is in Illinois if xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx has no knowledge of the person's residence or commercial domicile; and
- (b) the customer's payment is
  - (i) sent by the customer to a lockbox in Illinois; or
  - (ii) transmitted by the customer electronically to a bank located in Illinois.

Note that payments made by a credit card company (or any other third party) on behalf of a customer are payments from the customer, and should be sourced according to the same rules as payments made directly by the customer.

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

Sincerely,

Kent R. Steinkamp  
Staff Attorney -- Income Tax